

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**PHILLEMON KOSUMBA,**

**Plaintiff,**

**v.**

**WAL-MART ASSOCIATES, INC.,**

**Defendant.**

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**CIVIL ACTION NO. 3:cv-20-3688**

**DEFENDANT WAL-MART ASSOCIATES, INC.'S  
NOTICE OF REMOVAL OF ACTION**

COMES NOW Defendant, Wal-Mart Associates, Inc. (“Defendant” and/or “Walmart”), and files this Notice of Removal and states:

**I. BACKGROUND FACTS**

1. On November 17, 2020, Plaintiff, Phillemon Kosumba (“Plaintiff”), filed an Original Petition against Wal-Mart Associates, Inc. in the lawsuit styled: *Phillemon Kosumba v. Wal-Mart Associates, Inc.*, Cause No. DC-20-17164, pending in the 68th Judicial District Court of Dallas County, Texas. Plaintiff alleged causes of action against Walmart for disability discrimination, wrongful discharge and retaliation in violation of the Texas Commission on Human Rights Act (“TCHRA”), as codified in the Texas Labor Code Section 21.001 et seq. *See Plaintiff’s Original Petition, App. 6-7.* Finally, Plaintiff alleged damages against Walmart in excess of \$1,000,000.00 for all damages, including back pay and front pay, compensatory and punitive damages, expenses, pre-judgment interest, attorney fees and declaratory relief. *See Plaintiff’s Original Petition, App. 5, 8-9.*

**DEFENDANT WAL-MART ASSOCIATES, INC.'S  
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2. At the time of the filing of the state court action and at the time of the filing of the Removal of Action, Plaintiff was and is a citizen of the State of Texas. Plaintiff resides in Collin County, Texas.

3. Wal-Mart Associates, Inc. was at the time of the filing of this action, and still is, a corporation incorporated under the laws of the State of Delaware, having its principal place of business in the State of Arkansas.

## **II. REMOVAL BASED ON DIVERSITY**

4. This is a civil action of which the Court has original jurisdiction under 28 U.S.C. §1332 and is one which may be removed pursuant to the provisions of 28 U.S.C. § 1441(b) in that it is a civil action wherein the matter in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs (as demonstrated in Plaintiff's Original Petition), and is between citizens of different states. *See Plaintiff's Original Petition, App. 4-5.*

## **III. AMOUNT IN CONTROVERSY REQUIREMENT SATISFIED**

5. The amount in controversy requirement in this matter is satisfied. According to his Original Petition, Plaintiff is alleging numerous claims against Defendant and seeks a variety of damages. Moreover, Section IV, Paragraph 4 of Plaintiff's Original Petition states that Plaintiff seeks monetary relief over \$1,000,000.00. *See Plaintiff's Original Petition, App. 5.* Therefore, an amount in controversy in excess of \$75,000 is facially apparent from Plaintiff's Original Petition.

## **IV. TIMELINESS OF REMOVAL**

6. Removal is timely under 28 U.S.C. § 1446(b) because less than thirty (30) days have passed since Plaintiff's Original Petition was served upon Defendant. Specifically,

Plaintiff's Original Petition was filed in the 68th Judicial District Court of Dallas County, Texas, on November 17, 2020. Plaintiff's Original Petition was served on Defendant on November 24, 2020.

**V. ATTACHMENT OF STATE COURT PLEADINGS**

7. Defendant has attached to the Appendix for this Notice of Removal all pleadings that were filed in this case during the pendency of proceedings in state court.

**VI. NOTICE OF REMOVAL GIVEN TO STATE COURT**

8. This Notice of Removal is being filed with the 68th Judicial District Court of Dallas County, Texas, on the date of this filing with the United States District Court for the Northern District of Texas, Dallas Division. A copy of the notice provided to the state court is attached to the Appendix for this Notice of Removal.

WHEREFORE, PREMISES CONSIDERED, Wal-Mart Associates, Inc. respectfully requests that further proceedings in the state court action be discontinued and that Cause DC-20-17164 pending in the 68th Judicial District Court of Dallas County, Texas, be removed to the United States District Court for the Northern District of Texas, Dallas Division, and that this Court assume full jurisdiction over this action as provided by law.

Respectfully submitted,

s/ Nancy L. Waters  
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ATTORNEYS FOR DEFENDANT

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been served on counsel for Plaintiff, pursuant to the Federal Rules of Civil Procedure, on this 21st day of December 2020, as follows:

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s/ Nancy L. Waters  
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